MONTANA LEGISLATIVE HISTORY

Chapter 283 19 95

Bill H _____ S 355 Original bill & history ✓ C

H. Committee on	Highways & Transportation		S. Committee on	Highways & Transportation	
Hearing Date(s)	Mar 06	✓ C	Hearing Date(s)	Feb 11	✓ C
	Mar 08	✓ C			C
		C			C
		C			C
Date Out	Mar 09	✓ C		Feb 11	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

4/12	SIGNED BY GOVERNOR CHAPTER NUMBER 394 EFFECTIVE DATE: 04/12/95		

SB 354 INTRODUCED BY FORRESTER, ET AL.

PROVIDE FOR CONTRACTOR REGISTRATION

2/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/11	FISCAL NOTE REQUESTED		
2/17	FISCAL NOTE RECEIVED		
2/17	FISCAL NOTE PRINTED		
2/18	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING PASSED AS AMENDED	30	20
2/22	3RD READING PASSED	30	20
	TRANSMITTED TO HOUSE		
2/27	FIRST READING		
2/27	REFERRED TO BUSINESS & LABOR		
3/15	HEARING		
3/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/24	2ND READING CONCURRED	53	45
3/27	3RD READING CONCURRED	58	39
	RETURNED TO SENATE WITH AMENDMENTS		
4/01	2ND READING AMENDMENTS CONCURRED	37	7
4/03	3RD READING AMENDMENTS CONCURRED	40	5
4/08	SIGNED BY PRESIDENT		
4/08	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR CHAPTER NUMBER 500 EFFECTIVE DATE: 10/01/95		

SB 355 INTRODUCED BY FORRESTER, ET AL.

GENERALLY REVISE LAWS RELATING TO TOW TRUCKS AND ABANDONED VEHICLES

2/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/11	HEARING		
2/11	FISCAL NOTE REQUESTED		
2/17	FISCAL NOTE RECEIVED		
2/17	FISCAL NOTE PRINTED		
2/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	50	0
2/20	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/06	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/14	2ND READING CONCURRED	76	24
3/15	3RD READING CONCURRED	81	17
	RETURNED TO SENATE WITH AMENDMENTS		
3/18	2ND READING AMENDMENTS CONCURRED	46	0
3/20	3RD READING AMENDMENTS CONCURRED	50	0
3/25	SIGNED BY PRESIDENT		
3/25	SIGNED BY SPEAKER		

3/27	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR CHAPTER NUMBER 283 EFFECTIVE DATE: 03/29/95		

SB 356 INTRODUCED BY WILSON, ET AL.

REGULATE PERSONAL SOLICITATION SALES BY TELEPHONE AND FACSIMILE TRANSMISSION

2/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO BUSINESS & INDUSTRY		
2/11	FISCAL NOTE REQUESTED		
2/17	FISCAL NOTE RECEIVED		
2/18	FISCAL NOTE PRINTED		
3/17	HEARING		
3/17	TABLED IN COMMITTEE		
3/29	MISSED TRANSMITTAL DEADLINE FOR 71ST DAY DIED IN COMMITTEE		

SB 357 INTRODUCED BY VAN VALKENBURG, ET AL.

ALLOW ALL MEMBERS OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM TO RECEIVE A REGULAR SERVICE RETIREMENT BENEFIT AFTER 20 YEARS OF SERVICE REGARDLESS OF AGE

2/10	INTRODUCED		
2/10	FIRST READING		
2/10	REFERRED TO STATE ADMINISTRATION		
2/11	FISCAL NOTE REQUESTED		
2/16	HEARING		
2/16	FISCAL NOTE RECEIVED		
2/18	FISCAL NOTE PRINTED		
2/20	COMMITTEE REPORT—BILL PASSED		
2/21	2ND READING PASSED	34	15
2/22	3RD READING PASSED	34	16
	TRANSMITTED TO HOUSE		
2/27	FIRST READING		
2/27	REFERRED TO STATE ADMINISTRATION		
3/03	HEARING		
3/09	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/09	REREFERRED TO APPROPRIATIONS		
3/30	HEARING		
4/04	COMMITTEE REPORT—BILL CONCURRED		
4/05	2ND READING CONCURRED AS AMENDED	68	31
4/07	3RD READING CONCURRED	67	28
	RETURNED TO SENATE WITH AMENDMENTS NOTE: THE NET EFFECT OF THE HOUSE AMENDMENTS RESTORED THE BILL TO THE VERSION TRANSMITTED BY THE SENATE TO THE HOUSE. SINCE THIS VERSION OF THE BILL WAS APPROVED BY BOTH HOUSES ON 3RD READING, NO FURTHER ACTION WAS REQUIRED BY THE SENATE.		
4/10	SIGNED BY PRESIDENT		
4/10	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
	RETURNED TO SENATE WITH GOVERNOR'S PROPOSED AMENDMENTS		
4/11	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	50	0
4/12	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	47	2

SENATE BILL NO. 355 Mola

INTRODUCED BY Forrester Galvin Gillan Lorello Keating

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO TOW TRUCKS AND ABANDONED VEHICLES; CLASSIFYING TOW TRUCKS BASED ON WEIGHT; REQUIRING LIABILITY INSURANCE AND ANNUAL SAFETY INSPECTIONS FOR COMMERCIAL TOW TRUCKS; ESTABLISHING A LAW ENFORCEMENT ROTATION SYSTEM FOR THE REMOVAL OF WRECKED, DISABLED, OR ABANDONED VEHICLES; LIMITING THE USE OF NONCOMMERCIAL TOW TRUCKS; CREATING A PRIMA FACIE PRESUMPTION OF OWNERSHIP OF AN ABANDONED VEHICLE; INCREASING THE VALUE OF A JUNK VEHICLE; AMENDING SECTIONS 61-1-120, 61-8-356, 61-9-416, 61-12-402, AND 69-12-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

(1) A statement of intent is required for this bill because it requires the department of justice to adopt rules implementing the provisions of [sections 1 through 11]. At a minimum, the rules must address:

(a) the handling of wrecked, disabled, or abandoned motor vehicles carrying hazardous materials;

(b) the classification of noncommercially manufactured or modified tow truck equipment;

(c) the procedure for hearing disputes over the classification of noncommercially manufactured tow truck equipment;

(d) the protection of property taken into custody and the reclaiming of that property;

(e) inspection fees;

(f) the admission, suspension, or termination of tow truck operators on the law enforcement rotation system; and

(g) the certification of inspectors.

(2) It is the intent of the legislature that the Montana highway patrol be charged with the administration of [sections 1 through 11].

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 11] may be cited as the "Montana

Professional Tow Truck Act".

NEW SECTION. **Section 2. Purpose.** The legislature recognizes that:

(1) wrecked, disabled, and abandoned motor vehicles on the public roadways create hazards that imperil lives and property and require expeditious removal;

(2) officers investigating accidents on the public roadways need immediately available towing and recovery vehicles staffed by competent operators and adequately equipped to clear the roadways and remove hazardous obstructions with minimum damage to property;

(3) certain standards and classifications are needed for professional tow trucks and equipment used for towing and recovering wrecked, disabled, and abandoned motor vehicles or other objects creating hazards on the public roadways;

(4) encouragement of a competitive and qualified professional towing industry requires establishment of a uniform and equitable qualification system based on the equipment and the standards provided in [sections 5 through 7] and a system for the fair consideration of all qualified tow truck companies; and

(5) the use of nonqualified tow truck companies or private motor vehicles to tow or recover for hire wrecked, disabled, or abandoned vehicles creates additional hazards and, except in limited situations, should be prohibited. However, when a person or tow truck company responds in good faith to life-threatening emergency situations, it should not be liable for civil damages for acts or omissions, other than damages occasioned by gross negligence or by willful or wanton acts or omissions.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 11], the following definitions apply:

(1) "Commercial tow truck operator" or "operator" means a person, firm, or other entity that owns or operates a commercial tow truck as defined in 61-9-416.

(2) "Department" means the department of justice provided for in 2-15-2001.

(3) "Local government" means a county, a municipality, or other local board or body that has authority to enact laws relating to traffic.

(4) "Qualified tow truck operator" means a commercial tow truck operator:

(a) that has equipment that:

(i) meets the requirements of 61-9-416 and [sections 6 and 7]; and

(ii) has been classified in accordance with [section 5]; and

(b) that participates in the law enforcement rotation system provided for in [section 8].

NEW SECTION. **Section 4. Prohibition -- exception.** (1) A commercial tow truck operator may not operate for compensation upon the public roadways of this state unless the operator complies with the provisions of [sections 6 and 7].

(2) A commercial tow truck operator may not participate in the law enforcement rotation system provided for in [section 8] unless the operator complies with the provisions of [sections 5 through 7].

(3) [Sections 1 through 8 and 10] do not apply to a commercial tow truck operator that does not operate for compensation.

NEW SECTION. **Section 5. Classification standards.** (1) Commercial tow trucks are divided into the following five classes based on the manufacturer's rating:

(a) Class A tow truck equipment must have a minimum manufacturer's rating of 4 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 10,000 pounds gross vehicle weight.

(b) Class B tow truck equipment must have a minimum manufacturer's rating of 8 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 18,000 pounds gross vehicle weight.

(c) Class C tow truck equipment must have a minimum manufacturer's rating of 16 tons and must be mounted on a chassis that has a minimum manufacturer's rating of 32,000 pounds gross vehicle weight.

(d) Class D is class A, B, or C tow truck equipment that includes manufactured rollbacks and car carriers with manufacturer's gross vehicle ratings ranging from 10,000 pounds to 30,000 pounds. The rollbacks and car carriers must be mounted on a truck-trailer chassis that, at a minimum, is equal to the minimum gross weight of the rollback or car carrier.

(e) Class E includes two or more tow trucks working together with a combined manufacturer's rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders, and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo requires special handling. Class E refers to tow truck companies and not to tow truck equipment.

(2) (a) An operator of noncommercially manufactured or modified tow truck equipment in use on October 1, 1995, that wishes to participate in the law enforcement rotation system must have its equipment classified by the department within a time period set by the department. Once the equipment is classified, further modifications may not be made.

(b) (i) The department shall establish a committee composed of members selected from the:

(A) board of directors of the Montana tow truck association;

(B) the motor carrier services division of the department of transportation; and

(C) the highway patrol.

(ii) The committee is responsible for hearing disputes that may arise regarding the classification of noncommercially manufactured or modified tow truck equipment.

(iii) The department shall establish by rule a procedure for hearing a dispute.

(c) After October 1, 1995, an operator of new noncommercially manufactured or modified tow truck equipment must have its equipment independently certified before participating in the law enforcement rotation system.

NEW SECTION. **Section 6. Liability insurance -- storage requirements.** (1) Notwithstanding the provisions of 61-6-301, a commercial tow truck operator shall continuously provide:

(a) insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property caused by the maintenance or use of a commercial tow truck, as defined in 61-9-416, or occurring on the business premises of a commercial tow truck operator in an amount not less than:

(i) $300,000 for class A tow trucks;

(ii) $500,000 for class B tow trucks; and

(iii) $750,000 for class C tow trucks;

(b) insurance to cover the damage to cargo or other property entrusted to the care of the commercial tow truck operator; and

(c) garage keepers legal liability insurance.

(2) A commercial tow truck operator shall provide a storage facility, either a fenced lot or a building, that is:

(a) adequate for the secure storage and safekeeping of stored vehicles;

(b) located in a place that is reasonably convenient for public access;

(c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal holidays; and

(d) large enough to store all the vehicles towed for law enforcement agencies.

NEW SECTION. **Section 7. Inspection -- fees -- decal.** (1) The tow truck equipment of a commercial tow truck operator must have an annual safety inspection. A highway patrol officer, an employee of the department of transportation appointed as a peace officer in accordance with 61-12-201, or an inspector certified by the department shall conduct the inspection and require the commercial tow truck operator to provide proof of compliance with the provisions of [section 6].

(2) (a) Upon satisfactory completion of the inspection and verification of the insurance requirements, a decal showing the last inspection date and the expiration date of the insurance coverage must be affixed in a prominent place on the tow truck.

(b) If the commercial tow truck operator is participating in the law enforcement rotation system, the decal must also show the classification of the operator's tow truck equipment.

(3) The department may establish an inspection fee that may not exceed the actual costs of the inspection. The fees must be deposited in the state highway account in the state special revenue fund.

NEW SECTION. **Section 8. State law enforcement rotation system -- local government rotation system.** (1) The department shall establish an equitable rotation system among qualified tow truck operators that apply to the department in writing to be placed on the system. The rotation system:

(a) must be administered by the highway patrol in a manner that will give priority to public safety;

(b) must be based on the classification of equipment as provided in [section 5]; and

(c) may include only qualified tow truck operators.

(2) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the operator meets the insurance requirements provided in [section 6] and the safety inspection requirements provided in [section 7].

(3) (a) (i) The law enforcement officer at the scene of the wreck shall call the qualified tow truck operator that is next on the rotation list if:

(A) a request for a tow truck is not made by the owner or driver;

(B) the requested tow truck cannot respond in a timely manner; or

(C) the law enforcement officer determines that the requested tow truck is unable to handle the wrecked or disabled vehicle.

(ii) If the qualified tow truck operator is not classified to handle the wrecked or disabled vehicle, the officer shall call the qualified tow truck operator next on the rotation list that is classified to handle the wrecked or disabled vehicle.

(b) If a qualified tow truck operator classified to handle the wrecked or disabled vehicle is not reasonably available, the law enforcement officer may request other equipment to remove the hazard.

(4) The department shall administer the state law enforcement rotation system.

(5) A qualified tow truck operator gives implied consent to a reasonable inspection during normal business hours of its premises, vehicles, and equipment by the department of transportation, highway patrol, or a local government to ensure compliance with [sections 5 through 7].

(6) A local law enforcement agency may adopt and administer a local law enforcement rotation system. A tow truck operator desiring to be placed on the local law enforcement rotation system must be a qualified tow truck operator as provided in [sections 1 through 11].

NEW SECTION. **Section 9. Good faith immunity.** A person who renders assistance in an emergency that is life-threatening to the occupant of a wrecked, disabled, or abandoned vehicle or that is creating an immediate hazard on a public roadway or who renders emergency assistance as directed by a law enforcement officer or other emergency responder at the scene of a motor vehicle accident is immune from damages arising from acts or omissions related to the rendering of assistance unless the damages are occasioned by the gross negligence or by the willful or wanton acts or omissions of the person rendering the assistance.

NEW SECTION. **Section 10. Violation -- penalty.** A commercial tow truck operator that violates a provision of [section 6 or 7] is guilty of a misdemeanor and is subject to the penalty provided in 61-8-711.

NEW SECTION. **Section 11. Rulemaking authority.** The department shall adopt reasonable and necessary rules to administer the provisions of [sections 1 through 10].

Section 12. Section 61-1-120, MCA, is amended to read:

"**61-1-120. Emergency service vehicles.** "Emergency service vehicles" means emergency service vehicles of state, county, or municipal departments~~,~~ or public service vehicles, commercial tow trucks, or commercial road service trucks, which by the nature of their operation cause a vehicular traffic hazard~~; or authorized tow cars~~."

Section 13. Section 61-8-356, MCA, is amended to read:

"**61-8-356. Prohibition against parking or leaving vehicles on public property -- presumption of ownership.** ~~No~~ (1) A vehicle ~~shall~~ may not be parked or left standing upon the right-of-way of ~~any~~ a public highway for a period longer than 48 hours, ~~or~~ upon a city street, or ~~any~~ upon state, county, or city property for a period longer than 5 days.

(2) The abandonment of a motor vehicle on a public highway, a city street, public property, or private property creates a prima facie presumption that the last-registered owner of the motor vehicle is responsible for the abandonment and is liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less the amount realized if the motor vehicle is sold.

(3) The filing of a record of a sale or a transfer of the motor vehicle or the filing of a verified theft report with a law enforcement agency prior to the abandonment relieves the last-registered owner of liability under subsection (2)."

Section 14. Section 61-9-416, MCA, is amended to read:

"**61-9-416. Commercial tow truck definition -- requirements.** (1) ~~A commercial tow truck used to tow a vehicle by means of a crane, hoist, towbar, towline, or dolly must be~~ "Commercial tow truck" means a motor vehicle operating for compensation that is equipped with specialized equipment designed and intended for towing or the recovery of wrecked, disabled, or abandoned vehicles or other objects creating a hazard on the public roadways. A commercial tow truck must be equipped with:

(a) ~~equipped with~~ and carry not less than two red flares, two red lanterns, or two warning lights or reflectors. The reflectors must be of a type approved by the department.

(b) ~~equipped with~~ at least two highway warning signs of a uniform type, with dimensions of 3 x 3 feet, lettering 5 inches high, and reflectorized orange background and black border, as prescribed by the department. The signs must be designed to be visible both day and night. The warning signs must bear

the words "wreck ahead", "tow truck ahead", or "wrecker ahead", as prescribed by the department. When a motor vehicle is disabled on the highway, the tow truck operator called to render assistance during the hours of darkness shall immediately upon arrival place warning signs upon the highway as prescribed in this section and shall also place not less than one red flare, red lantern, or warning light or reflector in close proximity to each warning sign.

(c) ~~equipped with~~ and carry a dry chemical fire extinguisher of at least 5 pound capacity or an equivalent alternative type of fire extinguisher, approved by the department;

(d) ~~equipped with~~ a lamp emitting a flashing or steady red or amber light, or both a red and amber light, mounted on top of the cab of the tow truck or on the top of the crane or hoist if the light can be seen from the front of the tow truck. The light from the lamp must be visible for a distance of 1,000 feet under normal atmospheric conditions and must be mounted in such a manner that it can be securely fastened with the lens of the lamp facing the rear of the tow truck upon which it is mounted. When standing at the location from which the disabled vehicle is to be towed, the operator of the tow truck may unfasten the red light and place it in any position considered advisable to warn approaching drivers. When the disabled vehicle is ready for towing, the red light must be turned to the rear of the tow truck upon which it is mounted and securely locked in this position. Additional red or amber lights of an approved type may be displayed at either side or both sides of the tow truck as the case may warrant during the period of preparation at the location from which the disabled vehicle is to be towed.

(e) ~~equipped with~~ one or more brooms, and the operator of the tow truck engaged to remove a disabled vehicle from the scene of an accident shall remove all glass and debris deposited upon the roadway by the disabled vehicle that is to be towed;

(f) ~~equipped with~~ and carry a shovel, and whenever practical, the tow truck operator engaged to remove any disabled vehicle shall spread dirt upon that portion of the roadway where oil or grease has been deposited by the disabled vehicle;

(g) ~~equipped with~~ and carry a portable electrical extension cord or other device for use in displaying ~~a light~~ stop, turn, and tail lights on the rear of the disabled vehicle. The length of the extension cord may not be less than the length of the combined vehicles, and whenever a disabled vehicle is towed during the hours of darkness and the rear lamp or lamps on the disabled vehicle cannot be lighted, the tow truck operator shall provide for the rear light that is capable of emitting a stop and a directional signal by means of the extension cord or other device referred to in this subsection.

(2) The operator of a commercial tow truck used for the purpose of rendering assistance to other vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the roadway outside a business or residence district, place a highway warning sign as required in subsection (1)(b):

(a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 450 feet in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle; and

(b) in an area in which the posted speed limit is more than 45 miles an hour, 600 feet in advance of the disabled vehicle, except on a divided highway where the disabled vehicle does not cause disruption of traffic traveling on the opposite side of the divided highway, and an equal distance to the rear of the disabled vehicle.

(3) The owner or operator of a commercial tow truck who complies with the requirements of [sections 6 and 7] and this section may stop or park the tow truck upon a highway for the purpose of rendering assistance to a disabled vehicle, notwithstanding other provisions of this code."

Section 15. Section 69-12-102, MCA, is amended to read:

"**69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities, ~~(~~not including manufactured products of agricultural commodities~~)~~, if the motor vehicles are not used in carrying other property or passengers for compensation;

(b) the operation of school buses ~~which~~ that are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities ~~which~~ that are sponsored or supervised by school authorities;

(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction and production is concerned;

(d) the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as determined by the commission;

(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

~~(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or~~

~~disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;~~

~~(g)~~(f) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

~~(h)~~(g) ambulances;

~~(i)~~(h) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill;

~~(j)~~(i) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also going to or from the driver's place of employment;

~~(k)~~(j) the transportation of property by motor carrier as part of a continuous movement if that property, prior or subsequent to part of a continuous movement, has been or will be transported by an air carrier;

~~(l)~~(k) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

~~(m)~~(l) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security;

~~(n)~~(m) the transportation of a commodity under an agreement between a motor carrier and an office or agency of the United States government; or

~~(o)~~(n) the transportation of ~~handicapped~~ disabled or elderly persons provided by private, nonprofit organizations. As used in this subsection:

(i) ~~"handicapped"~~ "disabled" means an individual who has a physical or mental impairment that substantially limits one or more major life activities;

(ii) "elderly" means a person 60 years of age or older; and

(iii) "private, nonprofit organization" means an organization recognized as nonprofit under section

501(c) of the Internal Revenue Code.

(2) This chapter does not affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles. However, commercial tow truck firms shall file policies of insurance showing coverage required by [section 6].

~~(2)~~(3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 16. Section 61-12-402, MCA, is amended to read:

"61-12-402. Notice to owner. (1) Within 72 hours after any vehicle is removed and held by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county in which the vehicle was located at the time it was taken into custody and the place where the vehicle is being held. In addition, the Montana highway patrol shall furnish the sheriff:

(a) a complete description of the vehicle, including year, make, model, serial number, and license number if available;

(b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

(c) any available information concerning its ownership.

(2) The sheriff or the city police shall make reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner and lienholder or person of the location of the vehicle.

(3) If the vehicle is registered in the office of the department, notice is considered to have been given when a registered or certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest address shown by the records in the office of the department, return receipt requested and postage prepaid, is mailed at least 30 days before the vehicle is sold.

(4) If the identity of the last-registered owner cannot be determined, if the registration does not contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the county where the motor vehicle was abandoned is sufficient to meet all requirements of notice pursuant to this part. The notice by publication can contain multiple listings of abandoned vehicles. The notice must

be provided in the same manner as prescribed in 25-13-701(1)(b).

(5) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (2) through (4). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

(6) A vehicle found by law enforcement officials to be a "junk vehicle", as defined by 75-10-501, and certified as having an appraised value of ~~$100~~ $500 or less, as determined by the department of revenue, may be directly submitted for disposal in accordance with the provisions of part 5 of chapter 10, Title 75, upon a release given by the sheriff or the city police. In the release, the sheriff or the city police shall include a description of the vehicle, including year, make, model, serial number, and license number if available. A release provided by the sheriff or the city police under this section must be transmitted to the motor vehicle wrecking facility and must be considered by that facility to meet the requirements for records under 75-10-512 and 75-10-513. Vehicles described in this section may be submitted without notice and without a required holding period."

NEW SECTION. **Section 17. Codification instruction.** [Sections 1 through 11] are intended to be codified as an integral part of Title 61, chapter 8, and the provisions of Title 61, chapter 8, apply to [sections 1 through 11].

NEW SECTION. **Section 18. Coordination instruction.** If _____ Bill No. _____ [LC 981] is passed and approved and if it includes a section that repeals 69-12-102, then [section 15 of this act], amending 69-12-102, is void.

NEW SECTION. **Section 19. Effective date.** [This act] is effective on passage and approval.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0355, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
A bill generally revising the laws relating to tow trucks and abandoned vehicles.

ASSUMPTIONS:
1. The Highway Patrol Division in the Department of Justice estimates that the costs for development of administrative rules to implement the bill will be approximately $1,400 in FY96.
2. The Department of Justice may establish an inspection fee that may not exceed the actual costs of the inspection. The fees must be deposited in the state highway account. The potential inspection fee revenue, if any, is assumed to be minimal.

FISCAL IMPACT:

Expenditures:

	FY96 Difference	FY97 Difference
Department of Justice (Highway Patrol):		
Operating Expenses	1,400	0
Funding:		
State Special Revenue (02)	1,400	0

Dave Lewis 2-17-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

GARY FORRESTER, PRIMARY SPONSOR DATE

Fiscal Note for SB0355, as introduced

SB 355

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN LARRY TVEIT**, on February 11, 1995, at 11:50 a.m.

ROLL CALL

Members Present:
Sen. Larry J. Tveit, Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused:
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 355
Executive Action: none

HEARING ON SB 355

Opening Statement by Sponsor:

SENATOR GARY FORRESTER, SD 8, Billings, stated SB 355 would change and clarify classifications of tow trucks, specify which tow trucks were for hire, and set requirements for liability insurance.

Proponents' Testimony:

Bob Gilbert, representing the Montana Tow Truck Association, (MTTA), said he appeared in support of SB 355. He handed out **(EXHIBITS # 1 & # 2)** and explained that SB 355 was a product of a number of years work by the MTTA. He stated the intent of the Bill was public safety and professionalism in the industry. He explained tow trucks had a tremendous responsibility to not only retrieve and recover vehicles but to ensure the public was not put in jeopardy while the tow truck did its job. He reported SB 355 would be the first major change in tow truck law since its origination in 1937. He stated current law that referred to equipment a tow truck was required to carry was quite antiquated. He said SB 355 made minor changes in that area and **Colonel Reap** of the Montana Highway Patrol had agreed to update that section during the interim.

Mr. Gilbert said the handouts explained what the Bill did. He referred to the two proposed commercial operators in **EXHIBIT 2** and identified them as being for hire on the law enforcement rotation system and for hire not on the rotation system. He reported the law enforcement rotation system was where law enforcement, whether it be local or state, called tow truck operators out on a rotation system giving everyone an equal opportunity. He said the Bill primarily classified vehicles for this rotation system. He explained classifications were not actually classification of tow truck equipment so much as it was a classification of tow truck companies. He further explained the classifications would enable law enforcement personnel to determine which classification was necessary based on the specific needs and size of the accident. He reported that the companies on the law enforcement rotation system would be required to have their equipment classified, carry liability insurance and provide storage. He said storage was currently required by the Montana Highway Patrol (MHP) and only those businesses on the rotation system were required to have it. **Mr. Gilbert** reported current state law requirements for tow truck liability insurance was $10,000 just as it was for personal automobiles. He said most towers carried liability insurance far in excess of the requirement. He said current requirements could lead to consumers suffering significant loss if a tower did $30,000 worth of damage. He said that with the value of newer cars this could also be considered a consumer protection act. He explained the desire to have all Montana towers, who towed for hire, to carry an adequate level of insurance. **Mr. Gilbert** explained there would be three levels of insurance based on classification. He maintained that even though $750,000 was the federal standard for motor carriers they were concerned that smaller tow truck operators in rural communities were not going to be handling the real expensive equipment. He said it was not the intent to burden the smaller towers with insurance requirements which were unaffordable because of their limited business. **Mr. Gilbert** stated the towers on the law enforcement

rotation would be required to have their vehicles safety-inspected annually, exactly the same as commercial truckers. He explained the inspection would be done either by the Highway Patrol, the Motor Carrier Services Division of the Montana Department of Transportation, or operators could go to a school and become certified to do their own inspections. He added that for-hire tow trucks not on the law enforcement rotation system would be required to carry liability insurance and have annual safety inspections but there would be no storage requirements. **Mr. Gilbert** stated not-for-hire, private, towers would not have to meet the requirements of the Bill. He explained that would allow a person who breaks down to still be able to tow their own vehicle as long as they were within the limits of other state laws.

Mr. Gilbert said garage keepers legal liability insurance was also included in SB 355. He explained there was a great deal of confusion as to what garage keepers legal liability insurance covered and clarified that this type of insurance did not cover the vehicle in-tow but did cover other vehicles which may be damaged if the vehicle in-tow were to fall off and hit them. Insurance would be required if a tower was going to work for hire. He explained there would also be requirements for cargo. He said they had left the numbers out of the Bill, primarily because the contract between the towing company and insurance agent should be based on the size of the tow truck company's cargo. He added only the company would be familiar with how much cargo was involved in the accidents they handled and should adjust their coverage accordingly.

Mr. Gilbert related there was currently a variety of equipment on the road due to no inspections. He handed out pictures of homemade equipment and related that some of the homemade equipment was good but was not certified, as the commercially manufactured equipment was. He said commercially manufactured equipment was certified to do a certain job, while homemade equipment was not. He said SB 355 was intended to grandfather all homemade equipment currently operating in the State of Montana, and the effective date of the Bill was October 1, 1995. He maintained the homemade equipment would be grandfathered forever as long as the owners obtained classification the first year, kept up their annual safety-inspection, and wanted to be in law enforcement. He stated that companies not wishing to be on the rotation system would not have to be inspected annually or classified. He reported that after October 1, 1995, any new equipment, whether it was commercially manufactured or homemade, would have to be certified by the manufacturer or an independent certification process.

Mr. Gilbert reported that the Bill defined who tow truck operators were. He said the Bill did not allow for people who went looking for drivers in the ditch and offering to help for $20. He stated that type of situation was a real safety hazard as chains broke and caused damage; highways could be dangerously

blocked; and no flags, signs or warning lights were used. He explained there currently was no legal statute to prevent such activity, but SB 355 would state you could not tow for hire unless you met the criteria within.

Mr. Gilbert summarized Section 5 as providing for the classification of tow trucks. He said Section 6 covered the three levels of liability insurance, the garage keepers legal liability insurance, and stated that if you wanted to be on the law enforcement rotation system you would be required to have a storage area for abandoned vehicles. He explained that the state could be left at risk as a deep pocket, for vehicles towed on rotation by request of law enforcement, if the tower was without the proper liability insurance. He stated Section 7 provided for safety inspections and procedures and said there was a clause included to cover fees for the inspections. He said that even though they had been reassured there would currently be no fees, the clause provided language that would allow for fees to cover direct cost incurred by the Montana Highway Patrol in the event it was needed in the future.

Mr. Gilbert stated there were two law enforcement rotation systems and Section 8 set up how state and local government law enforcement rotations. He stated Section 9 was a new section on good faith immunity that provided for cases where there was an accident on the highway and a passerby rendered assistance before law enforcement arrived. He explained Section 9 would protect the passerby from liability for civil damages during emergency action. He said they felt the good faith immunity was very important to protecting people who were willing to help in instances such as life-saving situations, but feared they could be otherwise sued.

Mr. Gilbert stated Section 10 was a penalty provision and provided for the Department of Justice to adapt rules. He said Section 13 was a unique section of the law. He explained that under current law, if law enforcement called a tow truck operator to haul away an abandoned vehicle and the tower invested considerable time and still could not find out who the vehicle belonged to, the tower would not be paid. He explained that under Section 13 abandonment would create a prima facie presumption that the last registered owner was the person responsible for paying for the services. He stated that the filing of a record of sale, transfer of motor vehicle, or a verified theft report would take the responsibility off the last registered owner.

Mr. Gilbert stated Section 14 was a definition of tow trucks and updated the antiquated items. He said Section 15 provided for insurance filing with the Public Service Commission (PSC). **Mr. Gilbert** explained Section 16 raised the value of a junk motor vehicle from $100 to $500. He stated Section 17 was codification and Section 18 would not be necessary if **SENATOR CHUCK SWYSGOOD** amended his bill which conflicted with SB 355.

- **Milo Casagrande, Butte, President of Montana Tow Truck Association,** represented small towers unable to attend the hearing and expressed their support for the Bill. He listed the towers as six from Silver Bow County, four from the Dillon area, two from Anaconda and two from Deer Lodge.

Bill Sparr, Sparr's Towing, Missoula, represented the Missoula and Ravalli area towers who all supported SB 355.

Don Cerovski, Gallatin Valley Area, represented many towers from his area. He expressed support for the Bill and its classification of tow trucks and provision for insurance minimums both of which would provide an even basis for all operators.

Myron Mackey, Ace Towing, rose in support of SB 355 and expressed it was time to upgrade the industry, tower responsibility, and safety standards.

Mike Penne, Modern Auto, Laurel, expressed his support of SB 355 as well as the support of 10 additional towers from his area.

SENATOR MIKE SPRAGUE, SD 6, Billings, rose in support of SB 355 and noted the Bill was a prime example of private business solving its own problems.

Dennis Frownfelter, Bolster's Towing, Kalispell, represented 25 towers in Lincoln and Lake Counties and professed support for SB 355. He presented his witness statement **(EXHIBIT # 3)**.

Dan Allen, City Towing, Billings, explained the general public made certain assumptions when seeking a towing service. He added the public took for granted the towing industry met certain requirements to be in business. He explained the insurance requirements in the Bill would help the insurance industry to understand what types of insurance they need to provide to tow truck operators. He further explained the motoring public was misled by motor clubs; motor clubs did not actively enforce their insurance requirements on towing companies. He declared there was an extreme amount of hassle involved with junk vehicles. He reported the Bill's raising the amount from $100 to $500 would help the industry immensely.

Scott Hanser, Billings, supported making the tow truck industry professional. He reported the problem had been a lack of an equal playing field since some operators employed professional rules and some did not. He added SB 355 would require all equipment to be certified, it would protect the motoring public, and would require towers to carry enough insurance to cover themselves and the consumers.

Ralph Hanser, Hanser's Wrecker and Salvage, Billings, explained there was currently no criteria for the system of rotation and there would be no way to set up a system without regulation. He

reported the public was at risk because wreckers were not required to carry insurance and may have faulty equipment. He referred to the abandoned vehicle clause and asked the Committee to give it special consideration. He reported his company dealt with thousands of abandoned cars and disposed of over 400 abandoned vehicles in the last year. He estimated 50% of the vehicles towed in were abandoned and current law made it nearly impossible to dispose of them. He explained his company had been pushed to go into the salvage business due to the overflow of abandoned vehicles. He handed out pictures of accidents and illustrated how the proper equipment could limit the losses of the people involved in the accident. He related the industry had moved ahead on its own. He insisted, however, the companies who invested in large equipment would not be able to continue under current law.

Colonel Craig Reap, Montana Highway Patrol, reported he had been involved in the development of SB 355. He related as a patrol officer he had witnessed many problems involving wrecker operation in Montana and expressed the importance of laws regulating the rotation system. He explained current law provided little guidance for the rotation system and left too much room for disagreements between companies and law enforcement. He related law enforcement needed laws to fall back on in cases where their decisions regarding rotation were challenged.

Dave Galt, Administrator, Motor Carrier Services Division of the Montana Department of Transportation, reported the Division as standing ready to inspect the tow trucks at weigh stations. He maintained having been involved with the Tow Truck Association for a number of years and termed them a great group to work with. He urged the Committee's favorable consideration of SB 355.

Dean Roberts, Administrator of Motor Vehicles, Department of Justice, expressed support for SB 355. He sought to clarify page 7, line 16, regarding abandoned vehicles and the filing of a record of a sale or transfer of a motor vehicle. He explained there was some confusion where the filing of a record of a sale or transfer of a motor vehicle was to be done. He said that if the filing was to be done with the Motor Vehicle Division, it would be required that a person transferring a vehicle would have to transfer the title and registration and would have to send something to the Motor Vehicle Division to clarify they were no longer the registered owner. He explained Section 3 would require the seller to file proof twice. He suggested striking line 16 up to 'or'. He expounded Section 2 already covered the fact that if a previous owner could prove in court they no longer owned the vehicle they would not be held responsible.

Opponents' Testimony:

Henry Lohr, Hank's Salvage, Townsend, reported the Legislature was moving to deregulating the trucking industry and SB 355 sought to regulate the tow trucks. He stated SB 355 would make it hard to modify or even perform simple maintenance on trucks. He added the Bill also created more government.

Questions From Committee Members and Responses:

SENATOR ARNIE MOHL asked **Mr. Gilbert** why tow truck owners could not modify the truck to bring it up to standards? **Mr. Gilbert** replied modifications would be fine if the truck was brought up to standards. He explained Mr. Lohr had misinterpreted the Bill. **Mr. Gilbert** clarified changing a light bulb would be considered maintenance, not modification. He interpreted that SB 355 only applied when modifications were done, then the equipment would need to be certified. He cited an example of boom equipment that was not quite right so the owner modified it; that equipment would then need to be certified.

SENATOR MOHL asked if a tow truck owner had a homemade tow truck could he bring it up to safety standards, have it inspected, and use it legally? **Mr. Gilbert** replied that would be legal.

SENATOR MOHL inquired about fees for inspection and asked when the GVW or Highway Patrol found it necessary to begin charging fees could they do that under SB 355 or would they have to come back to the Legislature? **Mr. Gilbert** replied he had discussed the fees with the Department of Justice and the Montana Highway Patrol and had requested a negotiated rulemaking process be done for SB 355. He explained that would provide for the involved parties to participate when the rules were written. He stated **Colonel Reap** had advised the omission of any reference to fees in the Bill but the drafter had suggested that in the future a fee could be necessary. **Mr. Gilbert** stated the fees could be amended out as the Bill provided owners the ability to do their own inspections, as well as having assurances from **Colonel Reap** and **Dave Galt** that they would not be charging for the inspections.

SENATOR MOHL asked what process tow truck owners used to recover their costs on abandoned vehicles which were not worth $100?

{Tape: 1; Side: B}

Mr. Cassagrande replied as a general rule the costs were never recovered. He estimated 3 of every 5 cars towed in were abandoned. He explained the companies lost their towing costs and were only allowed to claim 90 days storage under state law. He stated only about 2 owners a year came back, paid the towing and storage, and took their car. **Ralph Hanser** said the cost of cleaning a vehicle before disposal, a requirement of the EPA, was

$150 to $250 and remarked the only way to recover a small portion of the cost was to sell the car to a junk yard.

SENATOR RIC HOLDEN asked what procedure a person would have to follow under the new law if the individual's vehicle broke down on the side of the road? **Mr. Gilbert** replied the person could still call a friend to pull the vehicle home and added the person also had the option of calling a tow company of their choice regardless of the company's status on the rotation system. He further noted a person had that choice at the scene of an accident as long as the tower chosen had the equipment to handle the wreck.

SENATOR HOLDEN noted there was already a rotation system in place and queried why the system needed to be included in statute? **Mr. Gilbert** replied the rotation system was currently provided for by rule and the rules were so broad that law enforcement had requested provision in statute to alleviate disagreements with towing companies.

SENATOR HOLDEN referred to the safety inspections and stated safety inspections and additional requirements squeeze out the smaller businesses and asked if that was the intent of the Bill? **Mr. Gilbert** replied that was not the intent of SB 355. He explained that since tow truckers deal with the public and are traveling down the road and possibly exposing the motoring public to faulty equipment, there was need to make every effort to insure safe equipment and safety for the public and their property. He insisted it would not require that much to make a vehicle safe and in reality the owner should not be operating if the vehicle was unsafe.

SENATOR HOLDEN referred to page 4, section 6, the requirements for insurance. He claimed he would be hesitant as a business owner to invite the State to mandate the type and amount of insurance his business needed. He noted it was incumbent upon business owners to analyze their own assets and purchase the insurance they felt was necessary to protect themselves and their business. He asked why they felt the Legislature should decide whether or not $300,000; $500,000; or $750,000 would be enough to cover different segments of the industry? **Mr. Gilbert** replied federal law required tow trucks crossing state borders to carry a minimum of $750,000 in liability insurance. He explained every commercial trucker in the State of Montana was required to carry the Public Service Commission's minimum of $500,000 liability insurance. He clarified the insurance was not to protect their assets, but to protect the public they worked for. **Mr. Gilbert** explained the concern was having a Class C wrecker with $10,000 in liability insurance towing a truck worth $130,000; should the tower wreck the truck, the owner of the truck would have to pay the cost. He added the owner of the truck could sue the towing company but if the company had no assets there would not be much the owner of the truck could do. He explained the insurance had

been divided into three classes to avoid excess pressure on the owners of smaller tow trucks.

SENATOR HOLDEN queried if the owner of the vehicle in-tow could not make a claim on his own vehicular insurance if the tow truck owner were to wreck the car in-tow? **Mr. Gilbert** stated the owner of the vehicle in-tow could make a claim on his individual insurance if the tow truck owner had no insurance and added the insurance carrier would then sue the tow truck owner.

SENATOR HOLDEN remarked that was exactly his point. He said businesses buy insurance to protect their assets in the event someone sues them and attempts to seize the company's assets. The concern at that point was not the consumer's assets it was the assets of the company. **Mr. Gilbert** suggested they were delving too far into the insurance. He related the bottom line was the industry did not want customers having to jump through hoops to recover damages caused by someone else. He reported the damages did not occur very often but when they did the industry did not want to be considered an industry which does not protect its customers. He insisted SB 355 was not government intrusion; it was an industry requesting equal standards for all tow truck owners. He stated the Bill would set professional standards.

SENATOR HOLDEN noted there were many new sections of law included in SB 355. He stated some form of the Bill would pass but he saw too much room in the Bill for government to step in an take over the tow truck industry. **Mr. Gilbert** stated he did not feel there was any intent of government to do that. He noted the federal government had stepped in and taken control of several industries because of their lack of desire to control themselves.

CHAIRMAN TVEIT asked about the liability insurance requirement of the Class C trucks? He noted that if an $800,000 or $900,000 truck being towed was totalled during the tow, $750,000 worth of insurance would not pay for the truck in-tow let alone the tow truck. **Mr. Gilbert** stated SB 355 simply set minimums for insurance.

CHAIRMAN TVEIT asked if the language requiring a fence around storage areas was a new requirement? **Mr. Gilbert** replied most trucks on the rotation currently have a fence even though it was not law. He said it is common practice because law enforcement is hesitant to turn a vehicle over to a company who could not safeguard it. He explained the requirement only applied to companies on the law enforcement rotation.

CHAIRMAN TVEIT asked about the garage keepers legal liability insurance and wondered if that was included in the $300,000; $500,000; and $750,000 requirements of the Bill. **Mr. Gilbert** replied the garage keepers legal liability was in addition to those figures. **Dan Allen** explained insurance companies traditionally sold tow truck owners on-hook insurance which had short falls in that it did not cover situations attributed to the

operator's negligence. He said garage keepers legal liability held the tow truck owner responsible for everything they were legally negligent for. He explained that if an incident ended up in court and the tow truck driver was found negligent, the legal liability insurance would cover the damages. garage keepers legal liability did not vary by interpretation from carrier to carrier as on-hook insurance did; garage keepers legal liability was a standard and covered professional negligence.

CHAIRMAN TVEIT asked if garage keepers legal liability was required in addition to the on-hook insurance? **Mr. Allen** replied garage keepers legal liability would be in lieu of the on-hook. He added the Bill would give insurance carriers a standard to go by when selling insurance to tow truck owners.

CHAIRMAN TVEIT asked how the law enforcement rotation system handled accidents in rural areas where the accident was 40 miles from the towing company next on the rotation and only 3 miles from another towing company who was not next on the rotation? He asked if the cost to the consumer was taken into consideration when calling a towing company? **Mr. Gilbert** stated the intention of the rotation system was to take into consideration the distances,and rotation lists should not be expanded far enough to allow that particular situation. **Colonel Reap** stated the MHP divided the state into areas and took into consideration the amount of business, population, and distances. He explained it was hard to be exactly fair but the MHP hoped everyone would be involved in the rulemaking process to help improve the fairness.

CHAIRMAN TVEIT referred to the good faith immunity in Section 9 and asked if it would provide immunity to someone who came upon an accident scene, did not know what to do and ended up placing a life in peril? **Colonel Reap** stated Section 9 was based on the good samaritan law that applied to medical care. He explained that someone trying to do something to help when they didn't know any better would not be found at fault.

CHAIRMAN TVEIT referred to section 13 and asked if the owner of a stolen or abandoned car along the roadside would be responsible for paying the towing charges? **Colonel Roberts** stated that if the owner filed a stolen vehicle report with law enforcement the owner would have no liability for the charges. He explained the law was modified so owners could no longer claim a vehicle was stolen simply because there was a towing bill on the vehicle.

SENATOR MACK COLE asked if SB 355 was comparable to what was discussed at the meeting he had attended in Billings? **Mr. Gilbert** replied the Bill was close to the same thing. He explained the Bill had gone farther clarifying grandfathering, requiring classification, and certification of homemade tow trucks.

- **SENATOR REINY JABS** asked if it was illegal to pull someone out of the ditch? **Colonel Reap** replied it was legal as long as there was no charge, but if it was for hire it was illegal.

SENATOR ARNIE MOHL asked for clarification of the law governing accidents and when the Highway Patrol needed to investigate before a car could be moved from the scene of the accident? **Colonel Reap** stated the law depended on the circumstances. He stated if a vehicle went off the road and got stuck and there was no damage then the Highway Patrol did not need to investigate.

SENATOR MOHL posed a situation where a car was in the ditch, a person pulled them out without checking the driver's sobriety, then the driver went down the road and killed someone. Would the person who pulled the driver out of the ditch be liable in any way? **Colonel Reap** stated the person who helped could be named in a civil action but he was not sure what the outcome would be.

SENATOR JABS asked if a tow operator towed a person out of the ditch and noticed they were drunk, what would the tow truck operator's responsibility be in that situation. **Mr. Gilbert** stated he would take the keys and stall the person until the Highway Patrol showed up.

CHAIRMAN TVEIT referred to the coordination section of the bill and asked if passage of the deregulation bill would affect SB 355. Mr. Gilbert stated that originally **SENATOR SWYSGOOD's** Bill would have deregulated the trucking industry and the Public Service Commission would no longer have been filing insurance. He explained the coordination section of SB 355 would have provided an alternate means for tow truck owners to file their insurance. He further explained that since SB 355 had been drafted **SENATOR SWYSGOOD** had changed his Bill and Section 18 was no longer needed and could be struck from the Bill.

{Tape: 2; Side: A}

Ms. Erickson stated an amendment would not be necessary. She explained Section 18 was a coordination instruction which would be automatically void if **SENATOR SWYSGOOD'S** Bill did not conflict with SB 355.

Closing by Sponsor:

SENATOR FORRESTER stated everyone testifying at the hearing was a small business. He reiterated that the tow truck industry had worked for years on this legislation and was requesting the legislative body to regulate them. He stressed the towers wanted their industry standardized. **SENATOR FORRESTER** noted SB 355 involved no cost to the state.

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL DATE 2/11/95

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	X		
RIC HOLDEN	X		
REINY JABS	X		
GREG JERGESON	X		
ARNIE MOHL	X		
LINDA NELSON	X		
BARRY "SPOOK" STANG	X		
CHUCK SWYSGOOD, VICE CHAIRMAN			X
LARRY TVEIT, CHAIRMAN	X		

SEN:1995
wp.rollcall.man
CS-09

SENATE HIGHWAYS
EXHIBIT NO. 1
DATE 2/11/95
BILL NO. SB 355

" THE MONTANA TOW TRUCK PROFESSIONALS "

OUR GOALS:

PUBLIC SAFETY AND PROFESSIONALISM

PROPOSED STEPS TO ACHIEVE THIS GOAL:

1. Classify tow trucks based on size and capability of equipment so they are matched to their intended use. We propose five classifications ranging from units needed to tow or recover automobiles to very specialized units with very specialized auxillary equipment to handle mishaps involving large trucks and even including the handling of hazardous materials.

2. Establishing liability insurance and storage standards for Professional Tow Truck Operators. There are three levels of coverage proposed based on equipment classficiation and capability. Current liability requirements for Tow Trucks are the same as the liability that is carried on private automobiles.

3. Equipment safety standards to ensure the units can safely handle motor vehicle emergencies. After October 1, 1995 all new or modified equipment must be certified by the manufacturer or independently. Existing equipment in use as of October 1, 1995 may continue to be used under a "grandfather" clause as long as it passes an annual safety inspection. All For Hire equipment must pass an annual safety inspection.

4. A Law Enforcement rotation system will be established to ensure that the public safety is protected by using only qualified equipment for towing and recovery.

5. Training programs will be established so Law Enforcement officers and Tow Truck operators can work together to ensure that public safety is "job one" on all towing and recovery work.

6. A "good faith assistance" clause is included for emergency situations. This is similar to the medical "good faith assistance" provision in current law.

7. An "abandoned vehicle" section is proposed to address "owner liability" in abondoned vehicle situations. This is very important due to the EPA environmental regulations.

SENATE HIGHWAYS
EXHIBIT NO. 2
DATE 2/11/95
BILL NO. SB 355

TYPES OF COMMERCIAL TOW TRUCK OPERATORS

1. FOR HIRE; ON THE LAW ENFORCEMENT ROTATION SYSTEM;
   SHALL HAVE:
   - A. Equipment Classified
   - B. Liability Insurance and storage
   - C. Annual Equipment Safety inspections

2. FOR HIRE; NOT ON THE LAW ENFORCEMENT ROTATION SYSTEM;
   SHALL HAVE:
   - A. Liability Insurance
   - B. Annual Equipment Safety inspections

OTHER:

NOT FOR HIRE -- PRIVATE

- A. Do not have to meet the requirements of this Chapter.
- B. You may recover or tow your own equipment as you always have. Do not have to meet the requirements of this Chapter.

SENATE HIGHWAYS
EXHIBIT NO. 3
DATE 2/11/95
BILL NO. SB 255

NAME Dennis & Margo Frownfelter

ADDRESS 693 Addison Square, Kalispell, MT 59901

HOME PHONE 406-752-0792 WORK PHONE 406-752-4528

REPRESENTING Bolster's Towing

APPEARING ON WHICH PROPOSAL? SB-355

DO YOU: SUPPORT ✓ OPPOSE _____ AMEND _____

COMMENTS:

We had a meeting in Kalispell including towers from Flathead, Lincoln, and Lake Counties to introduce this bill for comments. From 25 total on rotation, approx 80% showed. Others were contacted by phone. We are all small towing companies in these counties, and had very good support from everyone. This is a safety issue that we can all agree with. This is not a bill to put the little guy out of business.

Dennis Frownfelter
Margo Frownfelter

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETA

WITNESS.F11

DATE 2-11-95

SENATE COMMITTEE ON Senate Highways

BILLS BEING HEARD TODAY: SB 355

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Support	Check On Oppose
RALPH E. HANSER	HANSERS WRECKER	355	✓	
Dan Ceravski	CERO Bros.	355	✓	
Dennis & Margo Frownfelter	Bolster's Towing	355	✓	
Scott Hanser	Hansers Wrecker	355	✓	
Bill Sparr	Sparr's Towing	355	X	
Myron Mackey	Ace towing	355		
Milo Casagrande	Milo's Tows	355	✓	
GARY FORRESTER	SD #8	355	✓	
Daniel Allen	Billings	355	✓	
Mike Penne	Laurel	355	✓	
Bob Gilbert	MT. Tow Truck Assn.	355	X	
Rob Smith	MDOJ	355	*	
Craig Reap	MHP	355	✓	
Mike Sprague	Sen Dist 6	355	✓	
Kathy McGowan	MSPOA	355	✓	
Dena Robertson	Dept of Justice	355	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETA

REGISTER.F10

DATE 2-11-95

SENATE COMMITTEE ON Sen Highways

BILLS BEING HEARD TODAY:

SB 355

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppo
CURT LAINGEN	MT MOTOR CARRIERS ASSN	355		
Henry E Lohr.	Hanks Salvage.	355		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETA

REGISTER.F10

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on March 6, 1995, at 3:10 p.m.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Rick Jore, Vice Chairman (Majority) (R)
Rep. Patrick G. Galvin, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Matt Brainard (R)
Rep. Robert C. Clark (R)
Rep. Charles R. Devaney (R)
Rep. Marian W. Hanson (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Jeanette S. McKee (R)
Rep. William M. "Bill" Ryan (D)
Rep. Dore Schwinden (D)
Rep. Roger Somerville (R)
Rep. Joe Tropila (D)
Rep. Jack Wells (R)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Kim Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	**SB 355**
	SB 205
	SB 245
Executive Action:	**SB 103 Be Concurred In**
	SB 129 Tabled
	SB 114 Be Concurred In
	SB 163 Be Concurred In
	SB 268 Be Concurred In

{Tape: 1; Side: 1; Approx. Counter: 030; Comments: None.}

EXECUTIVE ACTION ON SB 103

Motion: **REP. JOE BARNETT MOVED SB 103 BE CONCURRED IN.**

Discussion:

REP. DON LARSON spoke in support of SB 103. He also said that SB 103 would clarify in law something that the State is already doing.

REP. DAN McGEE stated that the Federal Highway Administration would like to change everything to metric and the general public is not familiar with the metric scale and he stated he would oppose this piece of legislation for that reason.

REP. PAT GALVIN asked if what **REP. McGEE** mentioned was in federal law. **REP. DAN McGEE** replied yes.

REP. MARIAN HANSON stated that she believed that the bill only related to utilities that needed to be moved. **REP. DAN McGEE** replied that it was renaming categories of highway and that would be part of the agenda.

REP. MATT BRAINARD asked if the federal aid system came down to this. **REP. DAN McGEE** replied that there has been a policy made at a federal level and he objected to it.

Vote: The question was called. **A voice vote was taken. Motion CARRIED 15 to 3 with REP. MATT BRAINARD, REP. DAN McGEE and REP. RICK JORE voting no.**

{Tape: 1; Side: A; Approx. Counter: 170; Comments: None.}

HEARING ON SB 355

Opening Statement by Sponsor:

SEN. GARY FORRESTER, Senate District 8, Billings, stated that SB 355 comes from years of negotiations with tow truck operators. They have come to a consensus and have asked the legislature to introduce a bill to update the law.

Proponents' Testimony:

Bob Gilbert, Montana Tow Truck Association, spoke in support of SB 355. **EXHIBITS 1, 2, and 3**

Milo Casagrande, Milo's Towing, President, Montana Tow Truck Association, supported SB 355.

Bill Sparr, Sparr's Towing, and Missoula County Towing Association, supported SB 355.

Terry Morrison, Montana Tow Truck Association, Bozeman, supported SB 355.

Jim Smith, Montana Sheriffs and Peace Officers Association, stated that his group often works with the tow truck operators. He also said that this was a good bill with a lot of work behind it.

Mike Penney, Modern Auto, Laurel, supported SB 355.

{Tape: 1; Side: B; Approx. Counter: 010; Comments: New Side.}

Scott Hansen, supported SB 355.

Ralph Hanser, Hansers Wrecker Company, Billings, stated that he had been in the towing industry for 28 years and he supported SB 355. He also said that abandonment is a large problem in this business and he feels this will help that problem.

Dan Allen, City Towing, Billings, supported the bill.

Dave Galt, Administrator, Motor Carriers Services Division, Department of Transportation, supported the bill.

Craig Reap, Colonel, Montana Highway Patrol, stated that he and other patrolmen have participated in the making of the bill and he felt that SB 355 was a good start.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. MATT BRAINARD asked **SEN. FORRESTER** to explain page 4, line 3 of the bill. **SEN. GARY FORRESTER** replied that towing vehicles with homemade equipment would have to be re-certified.

REP. MATT BRAINARD asked who in the state would be doing this certification. **Bob Gilbert** replied that any person who was trained in that field.

REP. MATT BRAINARD asked if professional engineers were qualified. **Mr. Gilbert** replied that he was not sure how many would be qualified.

REP. MATT BRAINARD asked about the storage facility on the tow truck operators' property. **Mr. Gilbert** replied that most cities and counties do not have a fenced in area for these vehicles so the operator would store it. He also said that there is a rotation system for the use of tow trucks by the State.

REP. JACK WELLS asked how tow truck operators set fees. **Mr. Gilbert** replied that they vary because it is against the law to set rates on the tow trucks.

REP. JACK WELLS asked how the rotation system worked. **Mr. Gilbert** replied that having the rotation system has gone on for years and seems to work well. He said that competition keeps the costs down.

REP. JACK WELLS asked if the market influences tow truck rates. **Mr. Gilbert** replied no, and that the system has gone on for years.

REP. DON LARSON asked what percentage of the tow truck operators in the state of Montana does the Montana Tow Truck Association represent. **Milo Cassagrande** replied approximately a fourth of all the tow truck operators in the state are members.

REP. DON LARSON asked if SB 355 would provide more regulation and would tighten up who would be certified as a tower. He said that the bill would exclude 75% of the towers in the State of Montana. **Mr. Cassagrande** replied that a lot of the people he referred to as "towers" would be dealerships who do not want to take the time to belong to their association. He also said that there are a lot of small towers in the state that are not members because it is difficult for them to make meetings because they do not have a second driver.

REP. DON LARSON stated on page 4, lines 4 through 9 in the bill stated that the Department shall assign a committee with members selected from the Montana Tow Truck Association. He said his point was that the only towers who were allowed on the committee would be members on the board of directors of the Montana Tow Truck Association. **Mr. Cassagrande** stated that he would not mind amending the bill. He said the reason for that wording was because the Association had advertised and solicited people to come to the meetings and there is no reason a tower could not be on the board of directors if they wanted to. He said that a lot of the small towers do not come because they do not have the time. He also said that the small towers do need the representation.

REP. DON LARSON asked if the highway patrol are able to inspect a tow truck. **Rob Smith, Assistant Attorney General,** stated that to his understanding that either they are now or will receive the training to inspect these tow trucks.

REP. DON LARSON stated that if a highway patrolman called the wrong size wrecker and damage or injury was caused by the officer not being able to properly size the accident, would the State assume liability. **Rob Smith** replied that he would think the State would have to assume liability.

REP. DON LARSON asked if the state would be liable for damages if the state properly certified a company and the towing company sent out a new driver that did not know how to operate the machinery. **Mr. Smith** replied yes.

REP. DON LARSON asked who would be certifying these wreckers. **Bob Gilbert** replied that the state does not certify anyone they only classify. He also said the only certifying the state will do in this bill would be certifying the mechanic who would be eligible to inspect these trucks. The state would never want that sort of liability if a tow truck operator does not properly handle an accident. He also said that the State would be setting the limits on liability insurance on the tow truck operators.

REP. DON LARSON stated that on page 2 of the bill it sounded like the state would be certifying equipment. **Mr. Gilbert** replied that a unit is qualified based on its size, but it does not certify.

REP. DAN McGEE stated that on the last page of the bill, line 12 it would change the appraised value of junk vehicles. **Mr. Gilbert** replied that due to inflation they raised the amount to $500.

REP. PAT GALVIN asked if a person towed their own vehicle they would not have to meet some requirements. **Col. Craig Reap** replied that it would depend on the circumstances.

REP. PAT GALVIN asked how the highway patrol would be notified about these instances. **Col. Reap** replied that they would not be notified.

REP. BOB CLARK asked how the bill would affect a person who owns a repair shop and has a homemade wrecker and does not respond to accidents, but tows vehicles to his shop. **Mr. Gilbert** replied that if he does not charge for that service he would not be affected. If that person does charge for the service he would have to abide by the laws stated in the bill.

REP. DORE SCHWINDEN asked about a coordinating clause, LC 981. **Mr. Gilbert** replied that **SEN. CHARLES SWYSGOOD** had a deregulation bill that would deregulate all commercial trucking in the State of Montana. He said that the bill has been modified and is not necessary for the committee to take that language out of the bill.

Closing by Sponsor:

SEN. GARY FORRESTER stated that all different sized tow truck operators had gotten together to get this legislation here. He said that SB 355 promotes public safety.

{Tape: 2; Side: A; Approx. Counter: 009; Comments: New Tape.}

HEARING ON SB 205

Opening Statement by Sponsor:

SEN. GARY FORRESTER, Senate District 8, Billings, explained SB 205. **EXHIBIT 5**

Proponents' Testimony:

Carl Switzer, Montana Contractors Association, stated that the bill had two purposes, but the Senate amended out one of them. There is a change from 45 feet to 55 feet because there are cranes that are currently made that are 55 feet, but are able to maneuver better than some of the old type cranes.

HOUSE OF REPRESENTATIVES

Highways

ROLL CALL DATE March 6, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Shiell Anderson, Chairman	✓		
Rep. Rick Jore, Vice Chairman, Majority	✓		
Rep. Pat Galvin, Vice Chairman, Minority	✓		
Rep. Joe Barnett	✓		
Rep. Matt Brainard	✓		
Rep. Bob Clark	✓		
Rep. Charles Devaney	✓		
Rep. Marian Hanson	✓		
Rep. Don Larson	✓		
Rep. Rod Marshall	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Jeanette McKee	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	✓		
Rep. Roger Somerville	✓		
Rep. Joe Tropila	✓		
Rep. Jack Wells	✓		

EXHIBIT 1
DATE 3-6-95
SB 355

TYPES OF COMMERCIAL TOW TRUCK OPERATORS

1. FOR HIRE; ON THE LAW ENFORCEMENT ROTATION SYSTEM;
   SHALL HAVE:
   - A. Equipment Classified
   - B. Liability Insurance and storage
   - C. Annual Equipment Safety inspections

2. FOR HIRE; NOT ON THE LAW ENFORCEMENT ROTATION SYSTEM;
   SHALL HAVE:
   - A. Liability Insurance
   - B. Annual Equipment Safety inspections

OTHER:

NOT FOR HIRE -- PRIVATE

- A. Do not have to meet the requirements of this Chapter.
- B. You may recover or tow your own equipment as you always have.
  Do not have to meet the requirements of this Chapter.

DATE 3-10-95
SB 365

" THE MONTANA TOW TRUCK PROFESSIONALS "

OUR GOALS:

PUBLIC SAFETY AND PROFESSIONALISM

PROPOSED STEPS TO ACHIEVE THIS GOAL:

1. Classify tow trucks based on size and capability of equipment so they are matched to their intended use. We propose five classifications ranging from units needed to tow or recover automobiles to very specialized units with very specialized auxillary equipment to handle mishaps involving large trucks and even including the handling of hazardous materials.

2. Establishing liability insurance and storage standards for Professional Tow Truck Operators. There are three levels of coverage proposed based on equipment classficiation and capability. Current liability requirements for Tow Trucks are the same as the liability that is carried on private automobiles.

3. Equipment safety standards to ensure the units can safely handle motor vehicle emergencies. After October 1, 1995 all new or modified equipment must be certified by the manufacturer or independently. Existing equipment in use as of October 1, 1995 may continue to be used under a "grandfather" clause as long as it passes an annual safety inspection. All For Hire equipment must pass an annual safety inspection.

4. A Law Enforcement rotation system will be established to ensure that the public safety is protected by using only qualified equipment for towing and recovery.

5. Training programs will be established so Law Enforcement officers and Tow Truck operators can work together to ensure that public safety is "job one" on all towing and recovery work.

6. A "good faith assistance" clause is included for emergency situations. This is similar to the medical "good faith assistance" provision in current law.

7. An "abandoned vehicle" section is proposed to address "owner liability" in abondoned vehicle situations. This is very important due to the EPA environmental regulations.

EXHIBIT 3
DATE 3-6-93
SB 355

SENATOR GARY FORRESTER

THIS BILL DOES NOT ALLOW THE STATE TO SET PRICE RATES, TO SET OUT AREAS OF OPERATING AUTHORITY, OR RESTRICT ROUTES THAT TOW TRUCK OPERATORS MAY OPERATE ON.

MONTANA HAS NEVER DONE ECONOMIC REGULATION NOR GRANTED AND CONTROLLED THE GEOGRAPHIC AREA TOW TRUCK OPERATORS MAY SERVE.

FEDERAL LAW HAS FORBIDDEN THIS PRACTICE IN THOSE STATES THAT DID.

FEDERAL LAW PRESERVES THE RIGHT OF STATES TO CONTINUE TO HAVE CONTROL IN THE MATTERS OF SAFETY, SIZE AND WEIGHT, TRANSPORTATION OF HAZARDOUS CARGO AND MINIMUM INSURANCE REQUIREMENTS.

THIS BILL DOES NOT VIOLATE THE FEDERAL DEREGULATION ACT. IT USES THE RIGHTS RESERVED TO THE STATES TO GET REASONABLE SAFETY STANDARDS AND MINIMUM INSURANCE REQUIREMENTS TO PROTECT THE SAFETY AND HEALTH OF THE TRAVELING PUBLIC.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Transportation COMMITTEE BILL NO. SB 355, SB205, SB245

DATE 3-16-95 SPONSOR(S) SB355 Sen. Forester Sen. Junkin & Sen. Forester

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DAVID MAGER Missoula	TRIPLE 'O' SERVICES		
Ben Havdahl	MT Motor Carriers	SB245	
DAVE GALT	MDT	SB 205 SB 245 SB 355	
Bob Gilbert	MT Tow Truck Assn.	SB355	
Bigg Sparr	Sparr's Towing - Missoula	X	
Craig Reap	MHP	X	
John Schmeltzer	Helena Towing Service	X	
Rich Clough	Milo's Tow & Rec	X	
Jim Smith	Mt. Sheriff's Assn.	X	
Bob Smith	DOJ		
Daniel Allen	City Towing Billings	X	
RALPH F. HANSEN	HANSENS WRECKER CO	X	
Scott Hansen	Hansens Wrecker & Sec	X	
Tony Manna	MR. T Towing	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on March 8, 1995, at 3:21 p.m.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Rick Jore, Vice Chairman (Majority) (R)
Rep. Patrick G. Galvin, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Matt Brainard (R)
Rep. Robert C. Clark (R)
Rep. Charles R. Devaney (R)
Rep. Marian W. Hanson (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Jeanette S. McKee (R)
Rep. William M. "Bill" Ryan (D)
Rep. Dore Schwinden (D)
Rep. Roger Somerville (R)
Rep. Joe Tropila (D)
Rep. Jack Wells (R)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Kim Greenough, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: **SB 86**
SB 281

Executive Action: **SB 181 Be Concurred In As Amended**
SB 205 Be Concurred In
SB 355 Be Concurred In As Amended
SB 245 Be Concurred In

{Tape: 1; Side: A; Approx. Counter: 010; Comments: None.}

Vote: The question was called on **REP. McCULLOCH'S** amendment. **A voice vote was taken. Motion CARRIED 16 to 2 with REP. JORE and REP. DEVANEY voting no.**

Motion: **REP. DON LARSON MOVED SB 181 BE CONCURRED IN AS AMENDED.**

Discussion:

REP. DAN McGEE asked if the bill as amended would go back to the Senate for their approval on the amendments. **CHAIRMAN SHIELL ANDERSON** replied yes.

Vote: The question was called. **A voice vote was taken. Motion CARRIED 17 to 1 with REP. JORE voting no.**

{Tape: 2; Side: A; Approx. Counter: 410; Comments: None.}

EXECUTIVE ACTION ON SB 205

Motion: **REP. DON LARSON MOVED SB 205 BE CONCURRED IN.**

Discussion:

REP. DAN McGEE asked if the committee had a clear understanding of the impact of SB 205 and the weights of the vehicles on the highways. **Dave Galt** stated that the highways are designed for axle weights up to 25,000 pounds. He also said that chip trucks carry light loads and would not harm the roads.

Vote: The question was called. **A voice vote was taken. Motion CARRIED unanimously.**

{Tape: 2; Side: A; Approx. Counter: 480; Comments: None.}

EXECUTIVE ACTION ON SB 355

Motion: **REP. JEANETTE McKEE MOVED SB 355 BE CONCURRED IN.**

Discussion:

REP. DON LARSON stated that he was concerned with the restrictions set and the ability of people to get into the business. He also felt SB 355 would expose the State to liability.

REP. PAT GALVIN stated that the rotation system was rectified in Great Falls.

REP. DAN McGEE stated that he worked with the deputy sheriff in Missoula and they had a rotational system. He said that SB 355 would make this issue state wide.

REP. ROD MARSHALL stated he listened to the formation of this bill and felt it was fair.

REP. JACK WELLS asked if the rotational system increased prices of the towing service. **REP. DAN McGEE** replied no, that the prices were set by the individual towing companies. He also said that a person has the right to request any towing company they wish.

REP. ROGER SOMERVILLE stated that he had ridden with a highway patrolman and the first thing they ask a person who needs a tow truck is if they have a preference a particular tow truck business.

Motion: **REP. DON LARSON MOVED TO AMEND SB 355.**

Discussion:

REP. DON LARSON explained his amendment. **SEE EXHIBIT 10.**

Vote: The question was called on the **LARSON** amendment. **A voice vote was taken. Motion CARRIED unanimously.**

Motion: **REP. DAN McGEE MOVED SB 355 BE CONCURRED IN AS AMENDED.**

Discussion:

CHAIRMAN SHIELL ANDERSON stated that he was uncomfortable with the liability issue. He said it was a "let the buyer beware" issue.

REP. PAT GALVIN stated that he had friends in the tow truck industry and they agreed with the bill.

REP. BOB CLARK stated that the operators can be just as hazardous as faulty equipment or worse. He said they could have the best equipment made and with a bad operator they could be extremely hazardous. He said as a highway patrolman they do not have the option to call who they want.

{Tape: 2; Side: B; Approx. Counter: 010; Comments: New Side.}

REP. DON LARSON stated that if a business has ten trucks and another only has one truck the one with ten would have ten more calls then they guy with one truck. **REP. BOB CLARK** replied that was a "supply and demand" issue. He also felt they should have certified operators.

REP. MATT BRAINARD stated that homemade equipment could work as well as manufactured equipment.

REP. CHARLES DEVANEY asked if the rotation system rotates by company, not how many trucks. **REP. BOB CLARK** replied yes.

REP. BOB CLARK asked how **Bob Gilbert** felt about an organization that certifies these operators. **Bob Gilbert** replied that it could not be done right now, but maybe eventually they can. He also said if an operator was not safe and was not handling things properly they could be removed from the rotation system.

REP. BOB CLARK asked where in law that is mentioned. **Bob Gilbert** replied that there was a broad explanation on page 6, line 2.

REP. BOB CLARK stated that he would get in trouble when he would chose a particular wrecker. **Mr. Gilbert** replied that the intent in law was clear.

REP. ROD MARSHALL stated that the people who worked on this bill have been doing it for a year across the state and the intentions are good.

Vote: The question was called. **A voice vote was taken. Motion CARRIED 15 to 3 with REP. WELLS, REP. JORE and REP. LARSON voting no.**

EXECUTIVE ACTION ON SB 245

Motion: **REP. CHARLES DEVANEY MOVED SB 245 BE CONCURRED IN.**

Discussion: None

Vote: The question was called. **A voice vote was taken. Motion CARRIED unanimously.**

HOUSE OF REPRESENTATIVES

Highways

ROLL CALL DATE 03-08-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Shiell Anderson, Chairman	✓		
Rep. Rick Jore, Vice Chairman, Majority	✓		
Rep. Pat Galvin, Vice Chairman, Minority	✓		
Rep. Joe Barnett	✓		
Rep. Matt Brainard	✓		
Rep. Bob Clark	✓		
Rep. Charles Devaney	✓		
Rep. Marian Hanson	✓		
Rep. Don Larson	✓		
Rep. Rod Marshall	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Jeanette McKee	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden	✓		
Rep. Roger Somerville	✓		
Rep. Joe Tropila	✓		
Rep. Jack Wells	Came in late. 4:10 p.m. ✓		

HOUSE STANDING COMMITTEE REPORT

March 9, 1995

Mr. Speaker: We, the committee on **Highways and Transportation** report that **Senate Bill 355** (third reading copy -- blue) **be concurred in as amended.**

Signed: Shiell W. Anderson
Shiell Anderson, Chair

Carried by: Rep. Galvin

And, that such amendments read:

1. Page 4, line 6.
Strike: "board of directors of the Montana tow truck association"
Insert: "tow truck industry"

-END-

Committee Vote: Yes 15, No 3. Rep. Wells no
Rep. Yost
Rep. Harper

551401SC.I

10
3-8-95
SB 355

ZIP!Mail Document Listing

Release 1.23

Printed by: Greenough, Kimberlee
Printed at: 3-09-95 1:36p

From: Erickson, Connie
Sent at: 3-09-95 10:56a
Message: Kim: Here are the amendments to SB 355 and SB 181. The SB 181 amendments are a combination of the three that were passed by the Committee. I've transferred everything to the House Amendments Coordinator. Thanks! Connie E.

Author: Erickson, Connie
Doc name: SB035503.ACE
Type: PC file
To: Greenough, Kimberlee

Amendments to Senate Bill No. 355
Third Reading Copy

Requested by Representative Larson
For the House Committee on Highways and Transportation

Prepared by Connie Erickson
March 9, 1995

1. Page 4, line 6.
Strike: "board of directors of the Montana tow truck association"
Insert: "tow truck industry"

SENATE BILL NO. 355

INTRODUCED BY FORRESTER, FOSTER, GALVIN, MOLNAR, SHEA, QUILICI, PAVLOVICH, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO TOW TRUCKS AND ABANDONED VEHICLES; CLASSIFYING TOW TRUCKS BASED ON WEIGHT; REQUIRING LIABILITY INSURANCE AND ANNUAL SAFETY INSPECTIONS FOR COMMERCIAL TOW TRUCKS; ESTABLISHING A LAW ENFORCEMENT ROTATION SYSTEM FOR THE REMOVAL OF WRECKED, DISABLED, OR ABANDONED VEHICLES; LIMITING THE USE OF NONCOMMERCIAL TOW TRUCKS; CREATING A PRIMA FACIE PRESUMPTION OF OWNERSHIP OF AN ABANDONED VEHICLE; INCREASING THE VALUE OF A JUNK VEHICLE; AMENDING SECTIONS 61-1-120, 61-8-356, 61-9-416, 61-12-402, AND 69-12-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

(1) A statement of intent is required for this bill because it requires the department of justice to adopt rules implementing the provisions of [sections 1 through 11]. At a minimum, the rules must address:

(a) the handling of wrecked, disabled, or abandoned motor vehicles carrying hazardous materials;

(b) the classification of noncommercially manufactured or modified tow truck equipment;

(c) the procedure for hearing disputes over the classification of noncommercially manufactured tow truck equipment;

(d) the protection of property taken into custody and the reclaiming of that property;

(e) inspection fees;

(f) the admission, suspension, or termination of tow truck operators on the law enforcement rotation system; and

(g) the certification of inspectors.

(2) It is the intent of the legislature that the Montana highway patrol be charged with the administration of [sections 1 through 11].

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 11] may be cited as the "Montana

Professional Tow Truck Act".

NEW SECTION. **Section 2. Purpose.** The legislature recognizes that:

(1) wrecked, disabled, and abandoned motor vehicles on the public roadways create hazards that imperil lives and property and require expeditious removal;

(2) officers investigating accidents on the public roadways need immediately available towing and recovery vehicles staffed by competent operators and adequately equipped to clear the roadways and remove hazardous obstructions with minimum damage to property;

(3) certain standards and classifications are needed for professional tow trucks and equipment used for towing and recovering wrecked, disabled, and abandoned motor vehicles or other objects creating hazards on the public roadways;

(4) encouragement of a competitive and qualified professional towing industry requires establishment of a uniform and equitable qualification system based on the equipment and the standards provided in [sections 5 through 7] and a system for the fair consideration of all qualified tow truck companies; and

(5) the use of nonqualified tow truck companies or private motor vehicles to tow or recover for hire wrecked, disabled, or abandoned vehicles creates additional hazards and, except in limited situations, should be prohibited. However, when a person or tow truck company responds in good faith to life-threatening emergency situations, it should not be liable for civil damages for acts or omissions, other than damages occasioned by gross negligence or by willful or wanton acts or omissions.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 11], the following definitions apply:

(1) "Commercial tow truck operator" or "operator" means a person, firm, or other entity that owns or operates a commercial tow truck as defined in 61-9-416.

(2) "Department" means the department of justice provided for in 2-15-2001.

(3) "Local government" means a county, a municipality, or other local board or body that has authority to enact laws relating to traffic.

(4) "Qualified tow truck operator" means a commercial tow truck operator:

(a) that has equipment that:

(i) meets the requirements of 61-9-416 and [sections 6 and 7]; and

(ii) has been classified in accordance with [section 5]; and

(b) that participates in the law enforcement rotation system provided for in [section 8].

NEW SECTION. **Section 4. Prohibition -- exception.** (1) A commercial tow truck operator may not operate for compensation upon the public roadways of this state unless the operator complies with the provisions of [sections 6(1) and 7].

(2) A commercial tow truck operator may not participate in the law enforcement rotation system provided for in [section 8] unless the operator complies with the provisions of [sections 5 through 7].

(3) [Sections 1 through 8 and 10] do not apply to a commercial tow truck operator that does not operate for compensation.

NEW SECTION. **Section 5. Classification standards.** (1) Commercial tow trucks are divided into the following five classes based on the manufacturer's rating:

(a) Class A tow truck equipment must have a minimum manufacturer's rating of 4 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 10,000 pounds gross vehicle weight.

(b) Class B tow truck equipment must have a minimum manufacturer's rating of 8 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 18,000 pounds gross vehicle weight.

(c) Class C tow truck equipment must have a minimum manufacturer's rating of 16 tons and must be mounted on a chassis that has a minimum manufacturer's rating of 32,000 pounds gross vehicle weight.

(d) Class D is class A, B, or C tow truck equipment that includes manufactured rollbacks and car carriers with manufacturer's gross vehicle ratings ranging from 10,000 pounds to 30,000 pounds. The rollbacks and car carriers must be mounted on a truck-trailer chassis that, at a minimum, is equal to the minimum gross weight of the rollback or car carrier.

(e) Class E includes two or more tow trucks working together with a combined manufacturer's rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders, and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo requires special handling. Class E refers to tow truck companies and not to tow truck equipment.

(2) (a) An operator of noncommercially manufactured or modified tow truck equipment in use on October 1, 1995, that wishes to participate in the law enforcement rotation system must have its equipment classified by the department within a time period set by the department. Once the equipment is classified, further modifications may not be made.

(b) (i) The department shall establish a committee composed of members selected from the:

(A) ~~board of directors of the Montana tow truck association~~ TOW TRUCK INDUSTRY;

(B) the motor carrier services division of the department of transportation; and

(C) the highway patrol.

(ii) The committee is responsible for hearing disputes that may arise regarding the classification of noncommercially manufactured or modified tow truck equipment.

(iii) The department shall establish by rule a procedure for hearing a dispute.

(c) After October 1, 1995, an operator of new noncommercially manufactured or modified tow truck equipment must have its equipment independently certified before participating in the law enforcement rotation system.

NEW SECTION. **Section 6. Liability insurance -- storage requirements.** (1) Notwithstanding the provisions of 61-6-301, a commercial tow truck operator shall continuously provide:

(a) insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property caused by the maintenance or use of a commercial tow truck, as defined in 61-9-416, or occurring on the business premises of a commercial tow truck operator in an amount not less than:

(i) $300,000 for class A tow trucks;

(ii) $500,000 for class B tow trucks; and

(iii) $750,000 for class C tow trucks;

(b) insurance to cover the damage to cargo or other property entrusted to the care of the commercial tow truck operator; and

(c) garage keepers legal liability insurance.

(2) A ~~commercial~~ QUALIFIED tow truck operator shall provide a storage facility, either a fenced lot or a building, that is:

(a) adequate for the secure storage and safekeeping of stored vehicles;

(b) located in a place that is reasonably convenient for public access;

(c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal holidays; and

(d) large enough to store all the vehicles towed for law enforcement agencies.

NEW SECTION. **Section 7. Inspection -- fees -- decal.** (1) The tow truck equipment of a commercial tow truck operator must have an annual safety inspection. A highway patrol officer, an employee of the department of transportation appointed as a peace officer in accordance with 61-12-201, or an inspector certified by the department shall conduct the inspection and require the commercial tow truck operator to provide proof of compliance with the provisions of [section 6].

(2) (a) Upon satisfactory completion of the inspection and verification of the insurance requirements, a decal showing the last inspection date and the expiration date of the insurance coverage must be affixed in a prominent place on the tow truck.

(b) If the commercial tow truck operator is participating in the law enforcement rotation system, the decal must also show the classification of the operator's tow truck equipment.

(3) The department may establish an inspection fee that may not exceed the actual costs of the inspection. The fees must be deposited in the state highway account in the state special revenue fund.

NEW SECTION. **Section 8. State law enforcement rotation system -- local government rotation system.** (1) The department shall establish an equitable rotation system among qualified tow truck operators that apply to the department in writing to be placed on the system. The rotation system:

(a) must be administered by the highway patrol in a manner that will give priority to public safety;

(b) must be based on the classification of equipment as provided in [section 5]; and

(c) may include only qualified tow truck operators.

(2) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the operator meets the insurance requirements provided in [section 6] and the safety inspection requirements provided in [section 7].

(3) (a) (i) The law enforcement officer at the scene of the wreck shall call the qualified tow truck operator that is next on the rotation list if:

(A) a request for a tow truck is not made by the owner or driver;

(B) the requested tow truck cannot respond in a timely manner; or

(C) the law enforcement officer determines that the requested tow truck is unable to handle the wrecked or disabled vehicle.

(ii) If the qualified tow truck operator is not classified to handle the wrecked or disabled vehicle, the officer shall call the qualified tow truck operator next on the rotation list that is classified to handle the wrecked or disabled vehicle.

(b) If a qualified tow truck operator classified to handle the wrecked or disabled vehicle is not reasonably available, the law enforcement officer may request other equipment to remove the hazard.

(4) The department shall administer the state law enforcement rotation system. A QUALIFIED TOW TRUCK OPERATOR MAY EXAMINE THE ROTATION SYSTEM SCHEDULE ESTABLISHED BY THE DEPARTMENT IN ORDER TO DETERMINE IF THE SYSTEM IS BEING ADMINISTERED IN AN EQUITABLE MANNER.

(5) A qualified tow truck operator gives implied consent to a reasonable inspection during normal business hours of its premises, vehicles, and equipment by the department of transportation, highway patrol, or a local government to ensure compliance with [sections 5 through 7].

(6) A local law enforcement agency may adopt and administer a local law enforcement rotation system. A tow truck operator desiring to be placed on the local law enforcement rotation system must be a qualified tow truck operator as provided in [sections 1 through 11].

NEW SECTION. **Section 9. Good faith immunity.** A person who renders assistance in an emergency that is life-threatening to the occupant of a wrecked, disabled, or abandoned vehicle or that is creating an immediate hazard on a public roadway or who renders emergency assistance as directed by a law enforcement officer or other emergency responder at the scene of a motor vehicle accident is immune from damages arising from acts or omissions related to the rendering of assistance unless the damages are occasioned by the gross negligence or by the willful or wanton acts or omissions of the person rendering the assistance.

NEW SECTION. **Section 10. Violation -- penalty.** A commercial tow truck operator that violates a provision of [section 6 or 7] is guilty of a misdemeanor and is subject to the penalty provided in 61-8-711.

NEW SECTION. **Section 11. Rulemaking authority.** The department shall adopt reasonable and necessary rules to administer the provisions of [sections 1 through 10].

Section 12. Section 61-1-120, MCA, is amended to read:

"61-1-120. Emergency service vehicles. "Emergency service vehicles" means emergency service vehicles of state, county, or municipal departments~~,~~ or public service vehicles, commercial tow trucks, or commercial road service trucks, which by the nature of their operation cause a vehicular traffic hazard~~; or authorized tow cars~~."

Section 13. Section 61-8-356, MCA, is amended to read:

"61-8-356. Prohibition against parking or leaving vehicles on public property -- presumption of ownership. ~~No~~ (1) A vehicle ~~shall~~ may not be parked or left standing upon the right-of-way of ~~any~~ a public highway for a period longer than 48 hours, ~~or~~ upon a city street, or ~~any~~ upon state, county, or city property for a period longer than 5 days.

(2) The abandonment of a motor vehicle on a public highway, a city street, public property, or private property creates a prima facie presumption that the last-registered owner of the motor vehicle is responsible for the abandonment and is liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less the amount realized if the motor vehicle is sold.

(3) The ~~filing of a record of a sale or a transfer of the motor vehicle or the~~ filing of a verified theft report with a law enforcement agency prior to the abandonment relieves the last-registered owner of liability under subsection (2)."

Section 14. Section 61-9-416, MCA, is amended to read:

"61-9-416. Commercial tow truck definition -- requirements. (1) ~~A commercial tow truck used to tow a vehicle by means of a crane, hoist, towbar, towline, or dolly must be~~ "Commercial tow truck" means a motor vehicle operating for compensation that is equipped with specialized equipment designed and intended for towing or the recovery of wrecked, disabled, or abandoned vehicles or other objects creating a hazard on the public roadways. A commercial tow truck must be equipped with:

(a) ~~equipped with~~ and carry not less than two red flares, two red lanterns, or two warning lights or reflectors. The reflectors must be of a type approved by the department.

(b) ~~equipped with~~ at least two highway warning signs of a uniform type, with dimensions of 3 x 3 feet, lettering 5 inches high, and reflectorized orange background and black border, as prescribed by the department. The signs must be designed to be visible both day and night. The warning signs must bear the words "wreck ahead", "tow truck ahead", or "wrecker ahead", as prescribed by the department. When a motor vehicle is disabled on the highway, the tow truck operator called to render assistance during the hours of darkness shall immediately upon arrival place warning signs upon the highway as prescribed in this section and shall also place not less than one red flare, red lantern, or warning light or reflector in close proximity to each warning sign.

(c) ~~equipped with~~ and carry a dry chemical fire extinguisher of at least 5 pound capacity or an equivalent alternative type of fire extinguisher, approved by the department;

(d) ~~equipped with~~ a lamp emitting a flashing or steady red or amber light, or both a red and amber light, mounted on top of the cab of the tow truck or on the top of the crane or hoist if the light can be seen from the front of the tow truck. The light from the lamp must be visible for a distance of 1,000 feet under normal atmospheric conditions and must be mounted in such a manner that it can be securely fastened with the lens of the lamp facing the rear of the tow truck upon which it is mounted. When standing at the location from which the disabled vehicle is to be towed, the operator of the tow truck may unfasten the red light and place it in any position considered advisable to warn approaching drivers. When the disabled vehicle is ready for towing, the red light must be turned to the rear of the tow truck upon which it is mounted and securely locked in this position. Additional red or amber lights of an approved type may be displayed at either side or both sides of the tow truck as the case may warrant during the period of preparation at the location from which the disabled vehicle is to be towed.

(e) ~~equipped with~~ one or more brooms, and the operator of the tow truck engaged to remove a disabled vehicle from the scene of an accident shall remove all glass and debris deposited upon the roadway by the disabled vehicle that is to be towed;

(f) ~~equipped with~~ and carry a shovel, and whenever practical, the tow truck operator engaged to remove any disabled vehicle shall spread dirt upon that portion of the roadway where oil or grease has been deposited by the disabled vehicle;

(g) ~~equipped with~~ and carry a portable electrical extension cord or other device for use in displaying ~~a light~~ stop, turn, and tail lights on the rear of the disabled vehicle. The length of the extension cord may not be less than the length of the combined vehicles, and whenever a disabled vehicle is towed during the

hours of darkness and the rear lamp or lamps on the disabled vehicle cannot be lighted, the tow truck operator shall provide for the rear light that is capable of emitting a stop and a directional signal by means of the extension cord or other device referred to in this subsection.

(2) The operator of a commercial tow truck used for the purpose of rendering assistance to other vehicles shall, when the rendering of assistance necessitates the obstruction of any portion of the roadway outside a business or residence district, place a highway warning sign as required in subsection (1)(b):

(a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 450 feet in advance of the disabled vehicle and an equal distance to the rear of the disabled vehicle; and

(b) in an area in which the posted speed limit is more than 45 miles an hour, 600 feet in advance of the disabled vehicle, except on a divided highway where the disabled vehicle does not cause disruption of traffic traveling on the opposite side of the divided highway, and an equal distance to the rear of the disabled vehicle.

(3) The owner or operator of a commercial tow truck who complies with the requirements of [sections 6 and 7] and this section may stop or park the tow truck upon a highway for the purpose of rendering assistance to a disabled vehicle, notwithstanding other provisions of this code."

Section 15. Section 69-12-102, MCA, is amended to read:

"**69-12-102. Scope of chapter -- exemptions.** (1) This chapter does not affect:

(a) motor vehicles used in carrying property consisting of agricultural commodities, ~~(~~not including manufactured products of agricultural commodities~~)~~, if the motor vehicles are not used in carrying other property or passengers for compensation;

(b) the operation of school buses ~~which~~ that are used in conveying pupils or other students enrolled in classes to and from district or other schools or in transportation movements related to school activities ~~which~~ that are sponsored or supervised by school authorities;

(c) the transportation by means of motor vehicles in the regular course of business of employees, supplies, and materials by a person or corporation engaged exclusively in the construction or maintenance of highways or engaged exclusively in logging or mining operations, insofar as the use of employees, supplies, and materials in construction and production is concerned;

(d) the transportation of property by motor vehicle in a city, town, or village with a population of less than 500 persons according to the latest United States census or in the commercial areas thereof, as

determined by the commission;

(e) the transportation of newspapers, newspaper supplements, periodicals, or magazines;

~~(f) tow trucks and wreckers designed and exclusively used in towing abandoned, wrecked, or disabled vehicles or while these tow trucks and wreckers are rendering assistance to abandoned, wrecked, or disabled vehicles;~~

~~(g)~~(f) motor vehicles used exclusively in carrying junk vehicles from a collection point to a motor vehicle wrecking facility or a motor vehicle graveyard;

~~(h)~~(g) ambulances;

~~(i)~~(h) the transportation of pit run or processed sand and gravel, concrete mix, aggregate, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, used paving materials, used concrete, broken concrete, riprap, and other forms and types of materials transported solely for the purpose of excavation or fill;

~~(j)~~(i) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also going to or from the driver's place of employment;

~~(k)~~(j) the transportation of property by motor carrier as part of a continuous movement if that property, prior or subsequent to part of a continuous movement, has been or will be transported by an air carrier;

~~(l)~~(k) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

~~(m)~~(l) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security;

~~(n)~~(m) the transportation of a commodity under an agreement between a motor carrier and an office or agency of the United States government; or

~~(o)~~(n) the transportation of ~~handicapped~~ disabled or elderly persons provided by private, nonprofit organizations. As used in this subsection:

(i) ~~"handicapped"~~ "disabled" means an individual who has a physical or mental impairment that

substantially limits one or more major life activities;

(ii) "elderly" means a person 60 years of age or older; and

(iii) "private, nonprofit organization" means an organization recognized as nonprofit under section 501(c) of the Internal Revenue Code.

(2) This chapter does not affect commercial tow trucks designed and exclusively used in towing wrecked, disabled, or abandoned vehicles or while these tow trucks are rendering assistance to wrecked, disabled, or abandoned vehicles. However, commercial tow truck firms shall file policies of insurance showing coverage required by [section 6].

~~(2)~~(3) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 16. Section 61-12-402, MCA, is amended to read:

"**61-12-402. Notice to owner.** (1) Within 72 hours after any vehicle is removed and held by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county in which the vehicle was located at the time it was taken into custody and the place where the vehicle is being held. In addition, the Montana highway patrol shall furnish the sheriff:

(a) a complete description of the vehicle, including year, make, model, serial number, and license number if available;

(b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and

(c) any available information concerning its ownership.

(2) The sheriff or the city police shall make reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner and lienholder or person of the location of the vehicle.

(3) If the vehicle is registered in the office of the department, notice is considered to have been given when a registered or certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest address shown by the records in the office of the department, return receipt requested and postage prepaid, is mailed at least 30 days before the vehicle is sold.

(4) If the identity of the last-registered owner cannot be determined, if the registration does not contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity

and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the county where the motor vehicle was abandoned is sufficient to meet all requirements of notice pursuant to this part. The notice by publication can contain multiple listings of abandoned vehicles. The notice must be provided in the same manner as prescribed in 25-13-701(1)(b).

(5) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under 75-10-511, the wrecking facility may make the required search to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (2) through (4). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given.

(6) A vehicle found by law enforcement officials to be a "junk vehicle", as defined by 75-10-501, and certified as having an appraised value of ~~$100~~ $500 or less, as determined by the department of revenue, may be directly submitted for disposal in accordance with the provisions of part 5 of chapter 10, Title 75, upon a release given by the sheriff or the city police. In the release, the sheriff or the city police shall include a description of the vehicle, including year, make, model, serial number, and license number if available. A release provided by the sheriff or the city police under this section must be transmitted to the motor vehicle wrecking facility and must be considered by that facility to meet the requirements for records under 75-10-512 and 75-10-513. Vehicles described in this section may be submitted without notice and without a required holding period."

NEW SECTION. **Section 17. Codification instruction.** [Sections 1 through 11] are intended to be codified as an integral part of Title 61, chapter 8, and the provisions of Title 61, chapter 8, apply to [sections 1 through 11].

NEW SECTION. **Section 18. Coordination instruction.** If _____ Bill No. _____ [LC 981] is passed and approved and if it includes a section that repeals 69-12-102, then [section 15 of this act], amending 69-12-102, is void.

NEW SECTION. **Section 19. Effective date.** [This act] is effective on passage and approval.

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